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October 8, 1998

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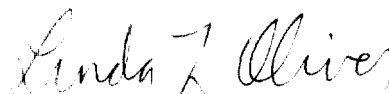
**Re: Inquiry Concerning the Deployment of Advanced
Telecommunications Capability to All Americans in a
Reasonable and Timely Fashion, and Possible Steps to
Accelerate Such Deployment Pursuant to Section 706 of
the Telecommunications Act of 1996, CC Docket 98-146**

Dear Ms. Salas:

Attached for filing in the referenced docket, pursuant to the procedural orders in this proceeding, FCC 98-187 (released August 6, 1998), and DA 98-1624 (rel. August 12, 1998), on behalf of Qwest Communications Corporation ("Qwest"), are the original and four copies of Qwest's reply comments.

If you have any questions, please contact me.

Respectfully submitted,



Linda L. Oliver
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Enclosures

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)

)
Inquiry Concerning the Deployment of)
Advanced Telecommunications Capability)
to All Americans in a Reasonable and)
Timely Fashion, and Possible Steps to)
Accelerate Such Deployment Pursuant)
to Section 706 of the Telecommunications)
Act of 1996)

CC Docket 98-146

REPLY COMMENTS OF QWEST COMMUNICATIONS CORPORATION

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
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Inquiry Concerning the Deployment of
Advanced Telecommunications Capability
to All Americans in a Reasonable and
Timely Fashion, and Possible Steps to
Accelerate Such Deployment Pursuant
to Section 706 of the Telecommunications
Act of 1996

CC Docket 98-146

REPLY COMMENTS OF QWEST COMMUNICATIONS CORPORATION

Qwest Communications Corporation ("Qwest") hereby respectfully
submits its reply comments in the referenced proceeding. 1/

In its initial comments, Qwest focused on the need for access to high
bandwidth last mile connections to the end user. Qwest's nationwide, state-of-the-
art, high speed broadband network is capable of providing a wide range of advanced
communications and information services to consumers around the nation. But if

1/ Inquiry Concerning the Deployment of Advanced Telecommunications
Capability to All Americans in a Reasonable and Timely Fashion, and Possible
Steps to Accelerate Such Deployment Pursuant to Section 706 of the
Telecommunications Act of 1996, CC Docket No. 98-146, FCC 98-187, released
August 7, 1998 ("Advanced Services NOI" or "NOI").

Qwest cannot reach the customer with broadband capability in the last mile, the full potential of its network will not be realized

Qwest maintained in its initial comments that it is the incumbent local exchange carriers, with their ubiquitous local network facilities, that have the greatest ability to enable the development of last-mile high-bandwidth connections to a broad base of end users. Many others commenting in this proceeding appear to agree. 2/ It is also encouraging that others, including cable companies and competitive local exchange carriers, are beginning to deploy broadband local facilities. But the fact remains that only the ILECs have ubiquitous last mile connections. Qwest therefore focuses in this reply on the comments submitted by the incumbent local exchange carriers ("ILECs"), while recognizing the broader context within which they operate.

I. THE ILECS CONTINUE TO PLEAD FOR DEREGULATION, RATHER THAN UNDERTAKING TO SHARE IN DEVELOPING ADVANCED NETWORK CAPABILITIES.

Qwest has invested billions of dollars in its advanced, nationwide broadband network, and it stands ready to take full advantage of an expansion in last mile capabilities. For the most part, however, the ILECs continue to argue that

2/ See, e.g., DSL Access Telecommunications Alliance ("DATA") Comments at 9; Commercial Internet Exchange Comments at 14, 15-16; MCI/Worldcom Comments at 3-4; ALTS Comments at 8, 16-17; AT&T Comments at 26-27; Northpoint Comments at 4-5.

they will not make significant investments in advanced last mile capabilities unless and until they are deregulated. 3/

Unfortunately, the ILECs do not, with few exceptions, even attempt to show in their initial comments what they are doing to advance the goals of Section 706, nor do most respond to the Commission's specific questions about broadband deployment. 4/ Instead, they complain that they cannot and will not invest substantial amounts in deployment of advanced services unless they are allowed to fence off that investment from competitors.

The Commission should not accept at face value the premise for deregulation offered by the ILECs. Despite the rhetoric they display in their initial comments, the ILECs do not explain why it is that they will be more likely to invest in advanced technology if they are afforded deregulated treatment. When all is said and done, their primary argument is that they will only invest in new technology if they do not have to share it with others.

This is nothing more than an empty threat, and should be rejected as such. The ILECs spend many pages arguing that every other player in the business is now and will continue to be busily engaged in deploying advanced network

3/ See, e.g., United States Telephone Association ("USTA") Comments at 2-3; Bell Atlantic Comments at 10-14; Ameritech at 9-16; U S WEST Comments at 26-31; Cincinnati Bell Comments at 14-16; BellSouth Comments at 42-56; SBC Comments at 2-5; GTE Comments at 19-26.

4/ BellSouth is the notable exception. See Comments of BellSouth at 13-17.

capability. 5/ If this is true, however, then the ILECs do not need deregulated treatment to get them to invest -- they will have to do it as a matter of competitive need. The ILECs are simply using evidence of broadband deployment by others as an excuse to avoid explaining what they are doing to promote the goals of Section 706. 6/

It also is counterintuitive to suggest that a carrier will decline to make needed investments in advanced technology simply because it might have to make such investments available to competitors. If a company is making heavy investments in new network capability, the best way to ensure that the investments are recovered is to allow other carriers to use the network too, and thereby help to recoup the cost. This is, in fact, exactly what Qwest has done in constructing its nationwide network. It has sold capacity on the network to other carriers to help finance the construction. 7/ Qwest also provides a wide range of other services to carriers, and strongly values its carrier's-carrier business. 8/

5/ See, e.g. BellSouth Comments at 17-31; U S WEST Comments at 5-14; Bell Atlantic Comments at 4-8.

6/ The one exception, of course, is the construction of Internet backbone facilities, which the RBOCs contend is inadequate. See, e.g. U S WEST Comments at 14-18. These self-serving assertions obviously are aimed at generating support for interLATA relief for the RBOCs.

7/ See Qwest NOI Comments, Summary at 3. Appendix B at 180-181.

8/ Id. at 16-17.

The RBOCs undoubtedly will rely on the facilities of Qwest and several other nationwide networks if and when the RBOCs are permitted to provide interLATA services. Other ILECs already are taking advantage of the carrier's-carrier offerings of long-haul transmission capability. The ILECs will not be forced to construct their own advanced nationwide network as a precondition for provision of competitive interLATA services. But the same would not be true for the local market if the ILECs have their way.

The ILECs' reluctance to provide competitors access to the local network as it evolves underscores their real motives here -- to have continued monopoly control of the customer as the network evolves, and to be able to price their advanced services offerings at supracompetitive levels. 9/

II. THE COMMISSION SHOULD NOT ALLOW ILECS TO AVOID THEIR MARKET-OPENING OBLIGATIONS WITH RESPECT TO ADVANCED TECHNOLOGY.

In their comments, the ILECs largely ignore the fact that the Commission has already rejected their pleas to have advanced services exempted

9/ It is wrong to suggest that competitors would somehow have a "free ride" on the ILEC network if the ILEC were forced to allow access to its advanced network capabilities. The Act clearly requires requesting carriers to pay cost-based rates for access to the ILEC network. 47 U.S.C. §§ 251(c)(3), 251(d)(1). Similarly, providing access to ILEC networks will not deprive competitors of the incentive themselves to invest in facilities, as some ILECs suggest. See, e.g., Ameritech Comments at 12. Where duplicating the ILEC investment is justifiable economically, competitors will do so.

from the pro-competitive provisions of the 1996 Act. ^{10/} In the Advanced Services Order, the Commission recognized that the Act makes no exception for new technology, new services, or new investment. ^{11/} All of this activity is subject to the market-opening provisions of the Act because advanced technology is still an integral part of the incumbent local exchange network.

The ILECs also try to disguise their role as the only ubiquitous providers of telecommunications services. They downplay their potential to bring advanced network capability to a broad base of customers. While cable television companies, competitive local exchange carriers, and others may make some inroads in providing advanced services, none of them has a ubiquitous network with connections to every home and business. If at some point in the future there are multiple last mile facilities to every customer, the Commission can consider whether forbearance is warranted for the ILECs. But today, before such advanced facilities have even been deployed to any significant extent, it is premature to consider deregulating these facilities.

^{10/} See, e.g., Ameritech Comments at 12-13 (asking the Commission to forbear from applying Section 251(c) to its advanced services); BellSouth Comments at 54-56 (asking Commission to narrowly read Section 251(c)); GTE Comments at 19-26 (seeking exemption from Section 251(c) and other regulatory requirements for advanced services).

^{11/} Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, et al., Memorandum Opinion and Order and Notice of Proposed Rulemaking, FCC 98-188, released August 7, 1998 at ¶¶ 11, 35, 40, 49 ("Advanced Services Order" or "Advanced Services NPRM" or "NPRM").

The ILECs also do not generally acknowledge the fact that all telecommunications services will be provided over advanced last mile facilities as those facilities become available. ^{12/} The capability to provide voice over packet networks already exists, and the likelihood is that all telecommunications services will migrate to high-speed packet networks as they become available. Competitors will need access to last mile high speed connections in order to maximize the potential to bring choice in advanced services to a broad customer base. Without such access, choice will be available only to those customers for whom duplicate facilities construction can be justified. The ILECs do not explain what will happen to the promise of local competition embodied in the 1996 Act if they are allowed to shield the next-generation technology embedded in their local networks.

In sum, the Commission should not go along with the threat presented by the ILECs. The ILECs' posturing is designed only to cover up their lack of action and to obtain continued shelter from competition. Giving in to the threat, by granting deregulated treatment of ILEC advanced services -- whether through forbearance, interLATA relief, or a separate subsidiary approach such as that outlined in the Advanced Services NPRM -- would have disastrous long-term consequences for competition and consumer choice. ^{13/}

^{12/} See BellSouth Comments at 16-17 (describing rapid deployment of ATM and frame relay switches in BellSouth territory over past five years).

^{13/} As Qwest made clear in its comments in response to the Advanced Services NPRM, such a separate subsidiary would not offer competitors significant protections, and it would allow the ILECs to shelter all of their advanced services

III. THE COMMISSION SHOULD CONSIDER ADOPTING SPECIFIC MEASURES, INCLUDING REGULATORY MANDATES, TO ACHIEVE FASTER DEPLOYMENT OF ADVANCED SERVICES.

In general, Qwest believes that ILECs face sufficiently strong incentives to invest in deployment of advanced services that the Commission can safely ignore the ILECs' threats that they will not invest without deregulation. But Qwest is also frustrated by the lack of commitment by the ILECs to accelerate investment in higher bandwidth services and facilities, which is reflected in their comments. The ILECs, in general, are not deploying electronics in the network to expand the capacity of existing fiber and copper facilities as rapidly as they could. And, as Qwest pointed out in its initial comments, ILEC competitors have encountered numerous difficulties in obtaining ready and reasonably priced access to high-bandwidth local facilities that are already in place.

Qwest and its customers need unrestricted access to all high-capacity media in the last mile -- whether DS-3, OC-N, or dark fiber. Qwest also has been frustrated by the ILECs' generally slow responses to the requests for service from Qwest and its customers. In its initial comments, Qwest therefore urged the Commission to make it clear that ILECs may not withhold access to high-capacity loops if that capability exists in the ILEC network. ^{14/} Qwest also urged the

capabilities from competitors, forcing them to construct duplicate facilities and to collocate in every ILEC central office in order to provide broad-based service. Qwest NPRM Comments at 28-47.

^{14/} Qwest NOI Comments at 23.

Commission to require ILECs to lease local dark fiber to other carriers, both in the loop and in the ILEC's interoffice network. 15/ In addition, as discussed in its NPRM comments, Qwest needs the ability to collocate its fiber facilities and switching and router equipment in ILEC central offices in order to take maximum advantage of existing high capacity loops. 16/

But more may be needed. In its comments in response to the Commission's Advanced Services NPRM, Qwest recommended that the Commission consider adopting a regulatory mandate that would require ILECs to extend advanced broadband network capability into the network at a specified rate. As a starting point, Qwest recommended that it would be reasonable, at the very least, to require the RBOCs to upgrade their local networks sufficiently so that 20% of their lines have a minimum of 1.5 Mbps capability 17/ within two years and 40% within four years. 18/ These achievable percentages should also include percentages for deployment of technology that would achieve a higher, 5 Mbps capability. Qwest also urged the Commission to adopt a requirement that ILECs respond to the

15/ Id. See NOI at para. 23

16/ In its comments on the Advanced Services NPRM, Qwest supported measures to reduce the high cost of collocation and to address the other difficulties that ILEC competitors have encountered with collocation. Qwest NPRM Comments at 52-55; Qwest NOI Comments at 24.

17/ This minimum could differ based on the type of premise.

18/ Qwest NPRM Comments at 74.

specific requests of competitors or customers for high bandwidth loops within a specified time interval. 19/

We encourage the Commission to seriously explore these alternatives for accomplishing the goals of Section 706.

CONCLUSION

Respectfully submitted,

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October 8, 1998

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I, Barbara E. Clocker, hereby certify that on this 8th day of October, 1998, a copy of the Reply Comments of Qwest Communications Corporation filed in CC Docket No. 98-146 was hand delivered to the parties listed below



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